

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,

Plaintiff,

v.

GREGORY COLBURN, *et al.*,

Defendants.

Case No. 1:19-cr-10080-NMG

**DEFENDANT ELISABETH KIMMEL’S MOTION  
FOR LEAVE TO FILE MOTION *EX PARTE* AND UNDER SEAL**

Defendant Elisabeth Kimmel respectfully moves this Court for leave to file a motion *ex parte* and under seal (“Submission”).

As grounds for the motion, Mrs. Kimmel states that she requests to file the Submission *ex parte* and under seal because it relates to an *ex parte* and under seal Rule 17(c) subpoena, the subject matter of which would reveal confidential trial strategy to the government. *See United States v. Diamont*, Case No. 1:05-cr-10154, ECF No. 33, slip op. at 5 (D. Mass. Nov. 22, 2005) (Dien, M.J.) (“[E]x parte proceedings are available under Rule 17(c) both based on the language of the Rule and for policy reasons.”).

**WHEREFORE**, Mrs. Kimmel respectfully requests that her motion to file the Submission *ex parte* and under seal be GRANTED.

Respectfully submitted,

/s/ Eóin P. Beirne

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*Counsel for Elisabeth Kimmel*

Date: April 14, 2021

**CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1**

I, Eóin P. Beirne, hereby certify that counsel for Defendants did not confer with counsel for the government regarding this motion as the underlying Submission would be made *ex parte* and under seal.

/s/ Eóin P. Beirne

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Eóin P. Beirne

**CERTIFICATE OF SERVICE**

I, Eóin P. Beirne, hereby certify that on April 14, 2021, I filed the foregoing with the United States District Court for the District of Massachusetts using the CM/ECF system and caused it to be served on all registered participants via the notice of electronic filing.

/s/ Eóin P. Beirne

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Eóin P. Beirne